

IC 20-12-21.2

Chapter 21.2. Secondary Market for Guaranteed Student Loans

IC 20-12-21.2-1

Definitions

Sec. 1. As used in this chapter:

- (1) "corporation" refers to the corporation designated by the governor under section 2 of this chapter;
- (2) "education loan" means a loan insured or guaranteed under a federal or state program or a program of private insurance that is made to assist a student in obtaining postsecondary education and is:
 - (A) made to any Indiana student, or either one (1) or both parents or the legal guardian of the student, for the purpose of attending an Indiana or non-Indiana institution;
 - (B) made to any non-Indiana student, or one (1) or both parents or the legal guardian of the student, for the purpose of attending an Indiana institution; or
 - (C) made or owned by any lending institution with offices or by any lending institution whose affiliate has an office located in Indiana or in a state in which an Indiana bank or an Indiana bank holding company is entitled under Indiana law to acquire a bank or bank holding company;
- (3) "lending institution" means an institution that makes or holds education loans; and
- (4) "federal program" means any program operated by the United States Secretary of Education under which the United States Secretary of Education provides guarantees or reinsurances of loans made to students or to either one (1) or both parents or the legal guardians of the students for the purpose of assisting students in obtaining postsecondary education.

As added by Acts 1980, P.L.154, SEC.1. Amended by Acts 1981, P.L.203, SEC.4; P.L.221-1983, SEC.1; P.L.215-1985, SEC.1; P.L.237-1987, SEC.1; P.L.167-1991, SEC.2.

IC 20-12-21.2-2

Private not-for-profit corporation; designation; requirements and conditions

Sec. 2. (a) The governor may request, on behalf of the state, the establishment of a private not-for-profit corporation, with a bipartisan board of directors, to serve as a secondary market for education loans. If such a private not-for-profit corporation is established, the governor may then designate the corporation to serve as the secondary market for education loans, and to act as an eligible lender under a federal program. The corporation must satisfy the conditions imposed by section 3 of this chapter, and its articles of incorporation must provide that upon the corporation's liquidation, any surplus funds shall be paid to the state.

(b) Prior to the designation by the governor, the corporation shall

conduct a public hearing for the purpose of giving all interested parties an opportunity to review and comment upon the bylaws and method of operation of the corporation. Notice of this hearing shall be given at least fourteen (14) days prior to the hearing in the manner set out in IC 5-14-1.5-5(b).

As added by Acts 1980, P.L.154, SEC.1. Amended by P.L.2-1987, SEC.26; P.L.237-1987, SEC.2.

IC 20-12-21.2-3

Corporation; powers; meetings; annual reports and audits

Sec. 3. (a) The corporation must, under its articles of incorporation, limit its powers to those described in subsection (b).

(b) The corporation may:

- (1) borrow money;
- (2) purchase, sell, and retire education loans, if the loans are not in default status;
- (3) provide incentive services and payments, such as the payment of premiums for the purchase of education loans and the payment of an origination fee, to assist lending institutions that provide education loans;
- (4) loan funds to lending institutions if:
 - (A) the lending institution agrees to use the funds to originate education loans of an amount equal to the loan made by the corporation over a period agreeable to the corporation and to grant the corporation the right of first refusal to purchase those education loans;
 - (B) the lending institution agrees to use education loans or government securities as collateral for the loan; and
 - (C) the corporation has, in response to its written request, received written authorization from the governor to exercise the power described in this subdivision;
- (5) establish after consultation with the associations representing the private lenders of the state and, at the direction of the governor, a direct lending program under which the corporation may make education loans to eligible borrowers under a federal program if the corporation determines that the borrowers cannot reasonably obtain an education loan from a lending institution in Indiana;
- (6) make direct loans to or for the benefit of an education loan borrower for the purpose of consolidating all or a portion of the borrower's outstanding education loans into one (1) loan;
- (7) operate a secondary market for postsecondary education finance instruments, including tuition certificates and education savings certificates sold by or offered through lending institutions or educational institutions; and
- (8) do all other things that are necessary or incidental to performing the functions listed in subdivisions (1) through (7).

(c) The corporation shall submit an annual report to the governor, which must include detailed information on the structure, operation, and financial status of the corporation. The corporation shall conduct

an annual public hearing to receive comment from interested parties regarding the report. Notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b).

(d) The corporation shall provide in its articles of incorporation that changes in the composition of its directors or in its bylaws are subject to the approval of the governor.

(e) The corporation is subject to an annual audit by the state board of accounts. The corporation shall bear the full costs of this audit.

(f) The board of directors of the corporation may meet in executive session to discuss negotiating strategies with respect to financing arrangements or proposals, in addition to those items listed in IC 5-14-1.5-6.1.

(g) Any or all members of the board of directors may participate in a meeting of the board by means of a conference telephone or similar communications equipment by which a member can communicate with each of the other board members if at least three (3) board members are present at the meeting. Participation by these means does not violate IC 5-14-1.5.

(h) The corporation and its transferees and pledgees, so long as they are eligible lenders under a federal program, are entitled to the benefits of any guaranty given by the state student assistance commission under IC 20-12-21.1 or any successor to the state student assistance commission with respect to education loans owned or held by the corporation, its transferees, or its pledgees, as long as the corporation, its transferees, or its pledgees are eligible lenders or holders of education loans under the rules adopted under IC 4-22-2 by the state student assistance commission or a successor to the state student assistance commission.

(i) Notwithstanding any other law, the commission may not make grants for any purpose without approval by the budget agency and the governor after review by the budget committee.

As added by Acts 1980, P.L.154, SEC.1. Amended by P.L.221-1983, SEC.2; P.L.215-1985, SEC.2; P.L.237-1987, SEC.3; P.L.1-1991, SEC.136; P.L.167-1991, SEC.3; P.L.1-1992, SEC.104; P.L.291-2001, SEC.237.

IC 20-12-21.2-4

Nature of debts of corporation

Sec. 4. Debts incurred by the corporation under authority of this chapter do not represent or constitute a debt of the state of Indiana within the meaning of the provisions of the constitution or statutes of the state of Indiana.

As added by Acts 1980, P.L.154, SEC.1.

IC 20-12-21.2-5

Bonds and notes; principal and interest; tax exemption

Sec. 5. The principal of and the interest on bonds and notes issued by the corporation under this chapter are exempt from taxation of every kind by the state and by the municipalities and other political

subdivisions of the state, except taxes imposed under IC 6-4.1.
As added by Acts 1980, P.L.154, SEC.1. Amended by P.L.237-1987, SEC.4.

IC 20-12-21.2-6

Bonds and notes; authorized investment

Sec. 6. All banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds which belong to them or are within their control in any bonds or notes issued under this chapter.

As added by Acts 1980, P.L.154, SEC.1. Amended by P.L.237-1987, SEC.5.

IC 20-12-21.2-7

Termination of designation under IC 20-12-21.2-2

Sec. 7. The designation by the governor under section 2 of this chapter shall remain in effect until the general assembly provides by law for termination of the designation.

As added by Acts 1980, P.L.154, SEC.1.

IC 20-12-21.2-8

Liability of officers or directors

Sec. 8. Except for acts of fraud or intentional misconduct, an officer or director of the corporation is not individually liable for any acts or omissions regarding the exercise or performance of that person's duty to the corporation.

As added by P.L.237-1987, SEC.6.

IC 20-12-21.2-9

Security interest in education loans; perfection

Sec. 9. Notwithstanding IC 26-1-9.1-310(a), a security interest in education loans is perfected by:

- (1) possession under IC 26-1-9.1-313; or
- (2) filing a financing statement in the office of the secretary of state under IC 26-1-9.1-501.

As added by P.L.167-1991, SEC.4. Amended by P.L.57-2000, SEC.7; P.L.1-2001, SEC.24.

IC 20-12-21.2-10

Secondary market sale fund

Sec. 10. (a) The secondary market sale fund is established for the purpose of providing money for school assessment testing and remediation, including reading recovery programs. The fund shall be administered by the budget agency.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of proceeds from the sale of assets of the Indiana Secondary Market for Education Loans, Incorporated.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest earned from these investments shall be credited to the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.340-1995, SEC.82. Amended by P.L.34-1996, SEC.20.